



The following constitutes the order of the court.
Signed October 2, 2015


William J. Lafferty, III
U.S. Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

In re)	Case No. 12-46834
)	
Jorge Edgard Quinones,)	Chapter 7
Lidia Delvalle Quinones,)	
)	
Debtors.)	
)	
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The Board of Trustees, in)	
their capacities as Trustees)	
of the Cement Masons Pension)	
Trust Fund for Northern)	
California, et al.,)	Adv. Pro. No. 13-04016
)	
Plaintiffs,)	
)	
v.)	
)	
Jorge Edgard Quinones,)	
Lidia Delvalle Quinones,)	
)	
Defendants)	

MEMORANDUM REGARDING RECENT NINTH CIRCUIT DECISION

At a Status Conference held on Tuesday, September 29, the

1 Court set a hearing date of October 19, and a briefing schedule
2 for Plaintiffs' *Motion to Dismiss Adversary Proceeding* (doc. 130)
3 and Defendants' *Counter-Motion for Order Determining Prevailing*
4 *Party* (doc. 141) and *Counter Motion for Sanctions* (doc. 142). In
5 connection with the *Counter-Motion for Order Determining*
6 *Prevailing Party*, the Court notes that on Thursday, October 1, the
7 Ninth Circuit Court of Appeals issued an opinion in the case
8 *Penrod v. AmeriCredit Financial Services, Inc.*, 2015 WL 53730425,
9 13-16097 (9th Cir. Oct. 1, 2015), that determined whether the
10 debtor in that case, who had prevailed in a prior dispute with a
11 secured lender, was entitled to attorneys fees under Section 1717
12 of the California Civil Code, based on an argument that the prior
13 dispute was an "action on the contract." While not presently
14 deciding the precedential effect of the *Penrod* decision on the
15 *Counter-Motion for Order Determining Prevailing Party*, the Court
16 does believe that consideration of this decision would be
17 appropriate in connection with the October 19 hearing, and expects
18 the parties to address the effect of the decision in their further
19 pleadings, and to be prepared to discuss the decision at the
20 October 19 hearing.

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22 *End of Memorandum*
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Court Service List

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